

**Supreme Court's Committee to Study the Use of
Interpreters and Translators in the
South Dakota Court System**

**Third Meeting
Friday, November 12, 2010
9:00 a.m. CT**

**Room 413, SD State Capitol Building
Pierre, South Dakota**

MEETING MINUTES

Attendance: Judge Brad Zell, Judge Shawn Pahlke, Judge Jon Erickson, Phil Peterson, Kerry Cameron, Aaron McGowan, Rosa Iverson, Lisa Fowler, Karl Thoennes, Bob Wilcox, Lisa Carlson, Greg Sattizahn

Excused: Attorney General Marty Jackley, Ken Tschetter, Judd Thompson

Presenters: Javier Callram, John Goerd, Qadir Awaire

State Court Administrators Office: Richard Lenius, Gloria Guericke

Call Meeting to Order – Judge Zell

Chair Judge Zell called the meeting to order at 9:00 a.m. He informed the group that the meeting is being broadcast live over the Internet and was also being recorded and would be available on the Committee's webpage at <http://ujs.sd.gov/courtinfo/committee.aspx>.

He explained that part of the recording from the July 23, 2010 meeting is missing. The equipment indicated the meeting was being recorded, but sometime during the transmission of the information from Sioux Falls to Pierre a glitch occurred, causing the disappearance of a portion of the meeting.

Judge Zell asked the committee members to introduce themselves for the benefit of the presenters and the listening audience.

Brief Summary of Past Meetings - Judge Zell and Greg Sattizahn

Judge Zell noted that this is the committee's third meeting. The first meeting was mainly organizational to determine plans and direction. The second and third meetings were for taking testimony.

He provided a bit of history in that this Committee was established a year ago by the South Dakota Supreme Court and that we are charged with reviewing what is currently in place and how to make improvements. The Committee can also deal with things adjacent to the court system, such as Court Services Officers' (CSO) services.

Mr. Sattizahn discussed a Department of Justice (DOJ) letter he had forwarded to all the Presiding Judges and Circuit Administrators as he wanted them to be aware of DOJ's concern.

Approval of Meeting Minutes

Mr. Wilcox moved and Judge Pahlke seconded the motion to approve the minutes from the last meeting. The motion passed unanimously by voice vote.

Javier Callram, Interpreter Coordinator, Fifth Judicial Circuit, Minnesota

Mr. Callram introduced himself and stated that he has been an Interpreter Coordinator in the Fifth Judicial Circuit for over two years. He provided a copy of his presentation to committee members and guests (Handout A).

He explained that the Minnesota Court Interpreter program maintains a statewide roster of court interpreters. The program also evaluates applicants for inclusion on the roster; coordinates and administers court interpreter ethics and spoken language certification testing; develops and delivers court interpreter training; monitors compliance with the Code of Professional Responsibility for Court Interpreters; educates judges and attorneys about the proper use of court interpreters; and develops policy governing court interpretation.

In 1994, Minnesota was one of the first state courts in the country to establish a court interpreter program. In addition, Minnesota was one of the original 4 founding states of the Consortium for State Court Interpreter Certification (Consortium). The Consortium is administered by the National Center for State Courts (NCSC) in Virginia. The Consortium started with 4 states and now includes 40. Several benefits of the Consortium include the possibility of reciprocity with member states (some states may have different standards), and that they handle the development of certification exams and the rating of completed exams for interpreters.

Mr. Callram discussed Minnesota's statutes which establish the court interpreter program and require the state courts to pay court interpreter program costs, including the costs of hiring court interpreters.

Minnesota has two levels of Court interpreters. The Rostered Interpreters must pass an Ethics test, sign a notarized Affidavit, attend a two-day orientation, and demonstrate language proficiency.

Certified Interpreters must complete all the requirements for Rostered Interpreters plus pass a Certification exam and pass a criminal background check.

Minnesota requires that those taking the Certification exam must score at least 70% in all three parts (Simultaneous, Consecutive, and Sight Translation (reading the Order, etc.)) of the exam in the same setting. The tests are then sent to Virginia for rating. Minnesota is provided the results of the tests (pass/fail) and the score.

Mr. Callram explained that Rule 8.02 of the General Rules of Practice for Minnesota District Courts requires that the courts must make a diligent effort to appoint a certified interpreter. If none is available, the Court must appoint one from the Court Interpreter Roster. If none is available from the Roster, the court may appoint an otherwise qualified interpreter.

Mr. Callram discussed the Minnesota Court Interpreter payment policy. A two-hour minimum compensation is guaranteed to an interpreter. Payment is as follows:

- ASL – Certified (legal) interpreters receive \$70/hour;
- ASLI – Certified (generalist) receive \$55/hour,
- Foreign Language – Certified (legal) receive \$50/hour;
- Foreign Language – non-certified receive \$30-\$40/hour,
- and those not on the Minnesota Court Roster receive \$25/hour.
- Telephone interpreting is \$2.00-\$2.25/minute.

Travel time compensation is included if the individual lives more than 35 miles away. The cancellation policy is 24 to 48 hours advance notice to interpreters. If less notice is provided, they must provide 8 hours of compensation. This varies depending upon the amount of notice they provide in cancelling.

Mr. Callram stated that future plans of the Minnesota Court Interpreter program include improving the quality of rostered interpreters through the development of additional standards and training; to recruit interpreters for the languages needed in specific geographic locations; and to develop remote interpreting policies and instructional materials for interpreters, court clerks and judges. They have been doing this in their more remote areas and have interpreters available to provide services over the phone on short notice for situations such as first appearance hearings in remote areas. Interpreters could also travel to the remote site or a satellite site.

Law enforcement is instructed when writing their tickets to indicate if an individual will need interpreter services. This helps provide advance notice to the courts.

Mr. Callram pointed out that a person in jail may have conversational English but cannot understand enough to follow a court proceeding, so an interpreter is needed. Remote interpreting should not to be used in proceedings where lengthy testimony is expected. As always, the judge has the discretion to determine if remote interpreting is appropriate.

The proceedings should be about 30 minutes or less in duration when doing remote interpreting. Adequate breaks should be provided for the interpreter if the proceedings are longer than 30 minutes.

Mr. Callram discussed several things to keep in mind when working with an interpreter:

- The interpreter is a human connection between all involved. They provide services in a professional manner.
- When an interpreter is provided, it sometimes is only for the court proceeding, and they are not available for the lawyer-client interview.
- In Minnesota they try to take advantage of the two-hour minimum time for the interpreter, so will contact social services, the lawyer and anyone else who may need the interpreter's services for that time period.

Questions

Mr. Sattizahn asked what Mr. Callram does as an Interpreter Coordinator.

Mr. Callram replied that his background is in engineering and that he's worked with languages for over 20 years. He finds an interpreter for that language when he receives a request from one of the 15 counties in his area. As much as possible, he groups all the hearings needed in order to utilize the interpreter's time. Not all the counties have hearings every day or have judges available daily, but the grouping of hearings helps with budgeting issues. Minnesota has 10 Judicial Circuits and four of them have an Interpreter Coordinator.

Mr. McGowan asked about the federal certification process and Minnesota's preference for the certified interpreters.

Mr. Callram explained that the federal standards are a bit higher. The written exam is done the first year and the oral exams the next year. After an individual is federally certified they can work in any court in the United States. If an individual is only certified in one or a couple standards, they are more limited where they can work.

Mr. McGowan asked if he felt other states might share their interpreter list and noted that South Dakota cannot afford the federal rate for interpreters.

Mr. Callram noted that there are no interpreters with medical certification in their state but there are interpreters with federal certification. They have plenty of Spanish interpreters but may need to search to find someone to provide the help with some of the other languages.

Mr. Thoennes asked if the interpreters pay their own expense for certification.

Mr. Callram replied that the interpreters do pay their own expenses for certification. The Judicial Districts in Minnesota that do not have an Interpreter Coordinator have a regional or centralized interpreter coordinator.

Mr. Thoennes asked how Mr. Callram handled requests for cases requiring several interpreters.

Mr. Callram stated that this usually occurs for the lengthier trials as they need to consider the fatigue factor for the interpreters. Trials going several days get 2 interpreters who can then change off every 20 minutes, or more often if difficult technical information is being provided.

Mr. Thoennes asked how you handle it when both sides request two interpreters; for example, in a domestic case.

Mr. Callram replied that there would be two interpreters for the proceeding and one for the victim. You provide the service for whoever needs the interpreter.

Mr. John Goerdts referenced interpreter fatigue and explained that accuracy of interpretation declines after 25 minutes of continuous interpreting. Statistics regarding this can be found on the Consortium's website. After four hours you need two interpreters who can periodically change out to cover the proceeding.

Mr. Callram added that team interpreters in a trial switch out seamlessly, and the switch doesn't slow down the case.

Judge Zell asked about civil matters and if Mr. Callram has run into situations where he had to utilize an uncertified interpreter in the more obscure languages.

Mr. Callram explained that they do research to find individuals who may have the language skills they need. They check for people in hospitals or schools who have some skill in interpreting. They then evaluate this individual to see if they are best person available by checking things such as their level of English, what interpreting they've done, and other criteria that is followed when evaluating a possible interpreter for a court case.

Judge Zell asked if Mr. Callram has had problems where you find an interpreter and then get to court and folks object because the interpreter doesn't speak the same dialect.

Mr. Callram replied that he has had this occur and that the Coordinator needs to try and avoid these situations. The more that is known in advance from police officers and others who have had contact with the individual, the more these situations can be avoided.

Mr. Sattizahn asked if Interactive Television (ITV) has been used with the interpreters.

Mr. Callram stated that they have the equipment and have been doing this, especially with the sign language interpreters. Minnesota is working with other states, such as Florida, who have the equipment in place, and Minnesota is moving toward what is done in these states.

Ms. Fowler informed the group that the sign language interpreters are writing a white paper which we'll want to consider when it becomes available.

Judge Zell noted that Minnesota adopted this program in 1994, and asked Mr. Callram how active the Department of Justice has been in reviewing their program.

Mr. Callram replied that the Civil Rights Association has representatives who report to the Department of Justice about any problems. In addition, the Department of Justice has representatives that check in periodically with the Coordinators to see what they are doing to select the right interpreter for situations.

John Goerdts, Iowa Deputy State Court Administrator, Coordinator of Iowa's Interpreter/Translator Program; member of Executive Committee of the Consortium for Language Access in the Courts

Mr. Goerdts thanked the Committee for inviting him. He explained that in 2001, the Iowa Supreme Court appointed a committee similar to this one to improve interpreter services, and he staffed this committee. Minnesota and Wisconsin were very helpful in sharing information with Iowa, even though Iowa wasn't part of the Consortium and didn't join until several years later.

He informed the group that the Consortium does more than just develop tests. In fact, the Consortium's name changed several years ago because their role had expanded.

Mr. Goerdts discussed the handouts he provided. The *10 Key Components to a Successful Language Access Program in the Courts* (Handout B) lists important things that should be considered, and the *Bench Card for Iowa Judges* (Handout C) is something that could be modified to fit South Dakota's needs and be included in a Judges Benchbook.

He explained that experienced experts developed the Consortium's exams. California developed their own exams and then had an outside evaluation company evaluate their test in comparison to the Consortium's exams. The Consortium's exams fared well in the evaluation, which is outlined in *California's Assessment of the Consortium for Language Access in the Courts' Exams* (Handout D).

Mr. Goerdt informed the group that Iowa's advisory committee was started in response to a murder case involving Vietnamese defendants. Due to poor interpreting skills, the interpreter for the Miranda rights told them they had the right to an "engineer."

Another interpreter situation had occurred earlier in a child custody "kidnapping" case where an interpreter told the defendant he was charged with "child sleeping," which resulted in the defendant pleading guilty.

Before 2004, the Iowa Supreme Court Rules required judges to appoint a "qualified interpreter." He pointed out the predicament that since there were no testing or training requirements for interpreters in the Court Rules, how do you determine what is meant by "qualified?"

Mr. Goerdt discussed the Code of Ethics for Court Interpreters, in which CANON 1 is about accuracy and completeness. He noted that there is to be no summarizing as this isn't a complete and accurate translation. A person's liberty is at stake and something as simple as dropping an adjective could make a difference.

The qualities of a competent court interpreter include the following:

- College-level vocabulary in 2 languages. Including legal and technical terms, slang, etc.
- Excellent memory skills.
- Excellent mental alacrity. Completely and accurately repeat back a passage in English from the original language. He explained that this is why interpreters get tired. The interpreters don't realize the decline is underway, but studies have determined it is occurring.
- Interpreter training and experience.
- Knowledge of a court interpreter's role and ethics. Sometimes the individual and the interpreter are the only ones who speak the language. The individual may ask the interpreter for direction or assistance and may receive it. The interpreter needs to relay questions to the court so that proper assistance is provided.

In 2004, Iowa adopted rules which paralleled Minnesota's in that they accepted interpreters who had federal, NAJIT or Consortium certification. They created a Roster of Court Interpreters using Minnesota's requirements, which includes a two-day orientation program and the passing of a multiple choice test on interpreter ethics. They require courts to appoint the highest ranked interpreter available.

Iowa joined the Consortium in 2005, which Mr. Goerdt felt was the best thing they ever did. This membership gave Iowa access to the Consortium's exams. Iowa immediately notified their interpreters that they would need to pass a written vocabulary exam in 2006 in order to get on or stay on the Roster. This was a key step in bumping-up the requirements in Iowa. Approximately 40% who took the exam failed. Some opted not to take the exam. This first step weeded out the interpreters who did not have an adequate vocabulary to be in court.

Mr. Goerdt discussed Basic Qualifications for Court Interpreters (Chapter 47) and for being listed on Iowa's Roster for Court Interpreters. He also discussed several of Iowa's levels of Interpreters and the requirements for each level, which are as follows:

- Class A – Certified (meets Iowa's standards) (70% correct on the 3 tests at one time.)
- Class B – non certified roster + one of these):
 - Certified in a state with lower standards
 - Came within 5% of passing certification exams
 - College level Court Interpreter training program (i.e., Des Moines Area Community College (DMACC)). This program takes 1.5 years to complete and most of the classes are done online. This program could be an opportunity for South Dakota's interpreters.
- Class C – non certified/on roster
- Non certified/not on roster

Mr. Goerdt reminded the group that experience does not ensure competence; that there is no substitute for testing. He referenced the first test of court interpreters which was done in New Jersey in the mid 1990s. Interpreters were given the Consortium's oral exam and needed at least a 70% in order to pass the exam. They found that individuals who had interpreted for 38 years got 44% correct, those interpreting for 22 years got 36% correct, and those interpreting for 12 years got 29% correct.

In the appointment of a Court Interpreter in Iowa, the court shall appoint an interpreter with the highest classification among those who are reasonably available. Iowa interpreters get preference over one from out of state. In addition, they must give preference within each classification to interpreters on the Roster.

Mr. Goerdt also discussed the Iowa SCA's Administrative Directive on Court Interpreter Compensation (2007), which included the following:

- Standard fees for court interpreters
- Minimum one hour per morning, one hour per afternoon
- Pay for travel time (if traveling more than one hour from residence)
- Cancellation policies – i.e., civil case settled and amount of notice needed. (See www.iowa.courts.gov and select *Interpreter Roster, Compensation for details*.)

Iowa's standard fees for Court Interpreters are as follows:

- Sign language interpreters (per hour)
 - Class A (certified): \$70
 - Class B (non certified): \$45
- Oral language interpreters (per hour)
 - Class A (certified): \$55
 - Class B (non certified): \$45
 - Class C (non certified/on Roster): \$40
 - Not on Roster: \$25

Mr. Goerdt noted that the Iowa Court Rules for Interpreters are in Chapter 47 and he recommended that we visit their website for information on the Guide, Tests, Training, Rules, Ethics, Forms, and Compensation.

Mr. Goerdt then shared the lessons Iowa learned during the development of their current interpreter program. The main recommendation was to join the Consortium, especially since it gives you access to the exams. Iowa didn't have anyone full-time to manage this program and it took up a lot of Mr. Goerdt's time. Other lessons learned included the following:

- Develop testing standards for interpreters.
- Develop clear rules on appointment and compensation.
- Educate judges, court staff and attorneys on the qualities of a competent interpreter; the appointment process (who locates, schedules interpreters); and how to handle court proceedings involving interpreters (see Handout C - Bench Card). Mr. Goerdt felt that they could use more educating, but the problem is that some judges don't see an interpreter that often, and those who utilize them often feel they don't need training since they feel they know the process.

One situation he sees when attorneys notify the clerk's office that they need an interpreter is that they often keep going back to the same interpreter because they like them even though there may be a higher-qualified person in an adjacent county. The judges need educated on this situation.

Mr. Goerdt felt that South Dakota would benefit from membership in the Consortium for Language Access in the Courts. The purpose of the Consortium is to share exams and other interpreter-related resources among states to promote the efficient use of state resources, standardize tests and testing policies, and to identify and encourage best practices. Forty states already belong to the Consortium.

Member benefits include:

- Access to oral interpretation (certification) exams in 25 languages.
- Access to a written exam for screening interpreters.
- Access to a Listserv of consortium members (help find interpreters for uncommon languages or to help identify best practices in other states).
- Access to a members-only website with valuable resources and materials.
- Access to a database of interpreters who have taken exams in member states.
- The right to attend the Consortium's annual meeting – valuable education program, networking, participate in governance of consortium.
- Access to bi-annual survey of member state program managers regarding their interpreter policies on a range of issues.

Mr. Goerdt pointed out that there are really 11 member benefits, but these seven are his favorite from the Consortium's website.

South Dakota's initial fee to join the Consortium would be \$15,000, which could be paid over 5 years. The annual fee begins after year five and would be \$5,103 for South Dakota. He explained that the fees are based on the LEP population.

Mr. Goerdt felt that it doesn't make sense for smaller states to develop and maintain their own exams. He pointed out that one criteria of membership in the Consortium is that you need to maintain tight security on exams (recordings, dictionaries, exam transcripts, etc.) in order to keep this information confidential. This is a top priority!

The next Consortium meeting is in April in Las Vegas. They have a great education program and will discuss Department of Justice requirements.

Questions

Mr. Sattizahn asked if there was a Coordinator in each Circuit.

Mr. Goerdt replied that there are no Coordinators in the Circuits or the State Administration office. He explained that the individual with the need for an interpreter goes to a clerk's office, where a roster is accessed for an interpreter. If no one on the roster is available, the district court office is contacted. They contact Mr. Goerdt if help is still needed in finding someone to interpret.

Iowa pays for indigent civil cases and charges it back to everyone. They still need to resolve problems with the compensation for the interpreters. Iowa's Supreme Court decided that the Professional Regulations office was better for handling Interpreter/Translator training, so Mr. Goerdt no longer has this duty.

Mr. Sattizahn asked what kinds of things Iowa was able to do without money before joining the Consortium.

Mr. Goerdt informed the group that he was initially directed to do what he could without any money, so they adopted the rules to require an orientation program and the ethics test. Minnesota gave them their ethics test. These initial steps were how interpreters got on the roster in Iowa. He advised that we need to start out by taking "baby steps." We need to start a list of those who pass the test as this provides some credibility. Iowa required people to pay a fee to cover the orientation costs. Iowa also got a grant from a principle group to also help defray costs. Iowa charges \$40 for the multiple choice test. He noted that you can get a good price on hiring someone to grade the Spanish oral exam because there are many people available who are fluent in this language, but it will cost you more to find someone who can grade an oral exam in a language such as Arabic.

Mr. Goerdt recommended joining the Consortium as there have been no challenges regarding interpreters' competency that have been certified through this program.

Judge Zell referenced Mr. Goerd's earlier comment about Iowa providing the interpreters and charging it back to the litigants. Mr. Goerd replied that amendments have been drafted to bring things into compliance with the Department of Justice as to who will pay. DOJ's legal analysis of the Civil Rights Act can be found at the following website: <http://www://LEP.gov>. He explained that depending upon the case in some states, the state or county gets charged back. Some states have a fund to pay for interpreters.

The biggest complaint regarding interpreters in Iowa is who will pay when multiple offices are involved and that this issue needs defined. He felt that \$1.2 million would be adequate for this program.

He noted that there are other areas to consider and used the example of a Parenting class for divorcing parents. If one or both of the participants do not speak English, is an interpreter needed? If so, who pays? He stated that they get questions like this all the time.

(A copy of Mr. Goerd's presentation is on file with the official meeting minutes.)

Qadir Awaire, Former Director of the Multi-Cultural Center in Sioux Falls

Mr. Awaire came to the United States as a refugee in 1977. He distributed a handout entitled *Countries and Regions in Sioux Falls* (Handout E).

Mr. Awaire expressed concern about how the court system has been used by foreigners using the language issue as a way to avoid the issue and possibly get away with their offense. They may claim their offense is part of their culture and may get away with the situation. This reflects poorly on the ethnic communities. Others are manipulating the system and requesting an interpreter when they don't really need one, and others request one just because they don't want to learn English.

He felt that if you are moving to US and not speaking English, it's important we provide support. If you've lived here for over 10 years and requesting a translator for a speeding ticket, this isn't right.

Mr. Awaire indicated he didn't want the ethnic community to manipulate the court system, but they also should receive the services they need in the court system.

He started the Multi-Cultural Center and provided a lot of education in the Center so that foreigners would understand their new country and its laws and services. He explained that 90% of the ethnic community do not trust the law enforcement or court system because of experiences they had with law enforcement before coming to the United

States. He felt that education is very important and is a key issue for our interpreter system.

He's aware of people living in Sioux Falls for over 10 years and still requesting an interpreter for their traffic ticket. He noted that when you become a citizen, you're not allowed an interpreter in the federal system.

Mr. Awaire felt that the tests recommended by Mr. Goerdts could possibly eliminate 70-80% of interpreters in Sioux Falls. Mr. Awaire felt that ethics, health/medical terms, and understanding the system are things an interpreter needs to know.

He felt that having the litigants pay for their interpreter would cut back on a lot of manipulation of the court system regarding interpreters.

Mr. Awaire felt that more education is needed in this area.

Discussion

Judge Pahlke thanked Mr. Awaire for his candor. She explained that when someone comes into her courtroom and she is told they don't speak English, she envisions being in Mexico City and not knowing the language and how she'd feel. She understands from his talk that a stringent training across the board for interpreters is essential.

Mr. Awaire agreed. He noted that interpreting is not easy. He explained that groups from third world countries may have had little to no education, so these folks would probably need interpreter assistance. Mr. Awaire suggested that organizations bringing immigrants to our country could provide education to these folks so they understand the basics of things such as driver education, the court system, and how to obtain a drivers license.

Ms. Iverson said that it is her personal belief that it should be a concerted effort since you do not know if the individual is a foreigner or if they are here with documented papers. This issue lies with the arresting officer and the initial paperwork. She felt that, as foreigners, we have a responsibility of helping others understand the laws of this country. She has personally taught people so they would understand our processes. She was pleased that this resource is available in Sioux Falls to help educate the newcomers and she felt that dedication is needed to prevent "surprises" in the courtroom.

Mr. Awaire felt that the ethnic community leaders should be responsible as much as possible to bring these issues to their people. A lot of communities are willing to do this; but others are uncomfortable. He felt that we need to be pro-active, not reactive.

Judge Zell thanked Mr. Awaire for noting these issues and providing us with areas to consider.

Bob Wilcox, Executive Director, S.D. Association of County Commissioners

Judge Zell informed the group that Mr. Wilcox conducted a survey concerning interpreter expenditures and will share his findings with the group.

Mr. Wilcox noted that 38 South Dakota counties out of 66 responded to the survey. This does not mean that the 28 counties who didn't respond did not incur some kind of costs. The survey was completed by county auditors.

He felt that this issue is a moving target. He pointed out that the survey results on the handout (Handout F) show that an hourly fee for a court interpreter ranges from \$25 to 75/hour, but then you have exceptions such as Bon Homme and Yankton, where the interpreting service was provided free of charge by a nun, and Dewey County, who utilized a local Spanish teacher. Codington County had to use a translator for a hearing impaired person at a rate of \$90/hour. He noted that no uniformity currently exists in South Dakota. These costs aren't outrageous on an hourly rate, but we'll need to address this if we set a uniform rate as this is geographically driven.

Mr. Wilcox referenced the handout entitled *Nebraska Supreme Court Interpreter Fee Schedule and Payment Policy* (Handout G). He noted that the \$35 and \$50/hour fees are paid out of the General Fund with funds appropriated to the Supreme Court for that purpose.

Questions

Mr. Sattizahn noted that some of the people are not charging for providing interpretative services and asked if Mr. Wilcox anticipated them dropping out if we require them to sign an oath or code of ethics.

Mr. Wilcox replied that his gut feeling was that they would not drop out as most people want to help out, especially in the smaller communities. He stated that during his 16 years as a commissioner, they only needed a signer one time in the commission room. A lot of counties do not have a lot of activity of this nature.

Mr. Wilcox explained that the survey was sent out shortly after he returned from our meeting in Sioux Falls. He will forward to the Committee any updated survey number that he receives.

Mr. Sattizahn asked if these costs are assessed against the defendant or paid by the county.

Mr. Wilcox explained that our ability to lien is available, but the success of recovery on liens isn't very high.

Mr. McGowan stated that his office pays for the interpreters his office uses.

Mr. Thoennes commented that no court has assessed costs for any interpreters used.

Mr. Awaire said he was aware of several times where the judge has ordered the defendant to pay for the interpreter.

Judge Zell noted that the lien by statute is made against the person. He's never seen it assessed against the client.

Mr. McGowan stated that there are statutes clear on blood/alcohol testing costs, but no statutory authority regarding assessing the client interpreter costs in a criminal case.

Judge Zell noted that it would be easy for us to bootstrap what is being done in Minnesota or Iowa. Minnesota pays for it all whereas Iowa bills it back to client or user of service, and Nebraska has it paid by the Supreme Court. We'll need to decide what kind of funding mechanism we would want to use. He noted that a user fee was assessed in South Dakota to help fund the new Case Management System.

Future Direction for Committee

Judge Zell noted that our next meeting will be held after the legislative session. We're probably looking at March or April for the meeting. He asked if the committee felt they needed more testimony or more direction; whether we need to explore what's going on in Colorado or Montana. There are certain things that need done if we plan to do anything legislatively.

Judge Pahlke felt that this legislative session will give us a good idea of how things are going economically. If funding is available, this will provide more options than if no funding is available.

Judge Erickson pointed out that everyone raised the same issues today. He was involved in the first planning council and this time we're just looking at one aspect. He felt that the committee knows what is involved in this issue and he didn't feel it is that complex, plus we have many solutions. The funding issue is complicated and may need to be addressed in stages. He would like to have something to the Supreme Court by next fall.

Judge Zell discussed how Iowa took "baby steps" since no funding was available. They adopted Minnesota's test and put together a Roster. This could be a starting point for us. It would be something to propose to the Supreme Court and share with the legislature.

Ms. Fowler agreed with Judge Zell's comments regarding doing the baby steps to get the education started. She felt this was a huge piece of the puzzle. We could then determine the next steps.

Judge Pahlke agreed with Mr. Goerd't's comments and felt that getting something to the Fall Judicial Conference would be a realistic timeline.

Mr. Sattizahn said he sees several options coming out of this committee: legislatively – we could do funding statutes, which would be a huge issue; we could do non legislative things like ethics and education. He stated that he's already started working on a training session for judges on how to utilize interpreters. If we have a specific legislative proposal, we could do it.

Mr. McGowan added that another baby step could be a complaint block where a person or family member could report a deficiency by an interpreter. We could then start to document the interpreters/translators working for us.

Mr. Peterson felt that we also need to do background checks.

Mr. Sattizahn noted that Mr. Goerd't's committee still continues to meet. He suggested perhaps a modified version of the committee could continue since updates will be continual in this field. Perhaps we could draft a code of conduct.

Ms. Fowler discussed the USD Mock Trials and explained that they want to bring this to Sioux Falls and incorporate the various principles. This program would tie in well with the educational component.

Judge Zell proposed a possible option that six months from now we start the baby steps, then move on to the next phase, and then tackle the funding in 2 years.

Judge Erickson suggested we start outlining what we want to look at so that we can start taking action. We know the directions being taken by surrounding states. We need a "map" for the Supreme Court to consider.

Next Meeting

After the legislative session, meeting dates will be selected and then sent out to the Committee for consensus.

Mr. Sattizahn asked if the Committee would like him to start pulling something together for their review.

Judge Zell asked for committee response regarding a draft:

- Mr. Thoennes requested some elements of a draft regarding statewide standard rates.
- Judge Erickson suggested not getting into policy, just address the issue and where we're going.
- Ms. Iverson liked the idea of having a blueprint.
- Ms. Fowler, Ms. Carlson, Judge Pahlke, Mr. Wilcox, Mr. McGowan and Mr. Peterson all felt a draft would be helpful.

Adjourn

Judge Erickson moved and Mr. McGowan seconded the motion to adjourn the meeting. The meeting adjourned at 2:30 p.m.